

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> Arnold Frank	DEFENDANTS Bank of America National Association
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Sagaria Law P.C. 333 West San Carlos Street, Suite 1750 San Jose, CA 95110, Phone (408) 279-2288	Attorneys (If Known) Reed Smith LLP 355 South Grand Avenue Suite 2900 Los Angeles, CA 90071

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.)

<input type="checkbox"/> 1 Original Proceeding	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify):	<input type="checkbox"/> 6 Multi-District Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge
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V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No

MONEY DEMANDED IN COMPLAINT: \$ 10,000 + fees + punitive damages

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Federal Fair Credit Reporting Act, 15 U.S.C. Section 1681 et seq.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Consumer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 535 General Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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ED CV 12 - 01236 VAP SPx

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Riverside County	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	North Carolina

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Riverside County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date July 25, 2012

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

PROOF OF SERVICE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 355 South Grand Avenue, Suite 2900, Los Angeles, California 90071.

I am readily familiar with the firm's business practice of collection and processing correspondence for mailing with the U.S. Postal Service. Under said practice, correspondence is deposited with the U.S. Postal Service in the ordinary course of business on that same day with postage thereon fully prepaid. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in this declaration.

On July 24, 2012, I served the foregoing document described as: **CIVIL COVER SHEET** by having placed a true copy thereof in a sealed envelope addressed as follows:

Scott J. Sagaria, Esq.
Elliot W. Gale, Esq.
Sagaria Law, P.C.
333 W. San Carlos St.
Suite 1750
San Jose, California 95110
Telephone: (408) 279-2288
Facsimile: (408) 279-2299
Ssagaria@sagarialaw.com
Egale@sagarialaw.com

I deposited such envelope with postage thereon prepaid with the United States Postal Service at 355 South Grand Avenue, Suite 2900, Los Angeles, California.

I am employed in the office of a member of the bar at whose direction service was effected.
Executed on July 24, 2012, at Los Angeles, California.

Charles Koster
Type or Print Name



1 Abraham J. Colman (SBN 146933)
2 Email: acolman@reedsmith.com
3 Raagini Shah (SBN 268022)
4 Email: rshah@reedsmith.com
5 355 South Grand Avenue, Suite 2900
6 Los Angeles, CA 90071-1514
7 Telephone: +1 213 457 8000
8 Facsimile: +1 213 457 8080

9 Attorneys for Defendant
10 Bank of America, N.A. (sued as "Bank of
11 America National Association")

FILED
2012 JUL 25 PM 3:19
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA—EASTERN DIVISION

14 ARNOLD FRANK,

15 Plaintiff,

16 vs.

17 BANK OF AMERICA, NATIONAL
18 ASSOCIATION, an FDIC insured
19 corporation, and DOES 1 through 100
20 inclusive,

21 Defendants.

ED CV 12 - 01236 VAP SPX
Case No:

[Removal from Superior Court of
California, County of Riverside Case No.
1209849]

NOTICE OF REMOVAL OF CIVIL
ACTION UNDER 28 U.S.C. § 1441(b)
AND (c)

[FEDERAL QUESTION]

Complaint Filed: June 28, 2012

REED SMITH LLP

A limited liability partnership formed in the State of Delaware

**TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA:**

PLEASE TAKE NOTICE that Defendant BANK OF AMERICA N.A. (sued as “Bank of America National Association”) hereby removes this action described below from the Superior Court of California for Riverside County to the United States District Court for the Central District of California, pursuant to Sections 1331, 1441(b) and (c), and 1446 of Title 28 of the United States Code (“U.S.C.”). The removal is based on the following:

**I. REMOVAL IS PROPER BECAUSE THIS COURT HAS SUBJECT MATTER
JURISDICTION PURSUANT TO 28 U.S.C. SECTIONS 1331 AND 1441**

1. On June 28, 2012, Plaintiff Arnold Frank (“Plaintiff”) filed a complaint (“Complaint”) against Bank of America N.A. in the Superior Court of the State of California for the County of Riverside, entitled Arnold Frank v. Bank of America, National Association, Case No. 1209849 (hereinafter, the “State Court Action”). The Complaint alleges (1) Violation of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. Section 1681 *et seq*; (2) Violation of the California Consumer Credit Reporting Agencies Act (“CCRAA”), California Civil Code Section 1725.25; and (3) Violation of California Business and Professions Code Section 17200 *et seq* (“UCL”). The Complaint and Summons are attached hereto as **Exhibit A**, as required by 28 U.S.C. §1446(a).

2. This action is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1331, and is one which may be removed to this Court pursuant to 28 U.S.C. § 1441(b) in that it is a civil action arising under the laws of the United States, specifically the FCRA.

3. This Court also has supplemental jurisdiction over Plaintiff’s state claims as these claims arise from the same core operative facts relating to Bank of America N.A.’s alleged violations of the FCRA. Accordingly, Plaintiff’s state law claims are

1 related to Plaintiff's federal question claims, and thereby form a part of the same case
2 and controversy pursuant to 28 U.S.C. § 1367(a).

3 II. THE PROCEDURAL REQUIREMENTS FOR REMOVAL ARE SATISFIED

4 4. Bank of America N.A. was served with the Complaint on June 29, 2012.

5 5. This Notice of Removal is timely in that it is filed within thirty (30) days
6 from the point at which Bank of America N.A. had notice that the action was
7 removable, and less than a year after the commencement of the state court action. See
8 28 U.S.C. § 1446(b).

9 6. The Superior Court of California for the County of Riverside is located
10 within the United States District Court for the Central District of California—Eastern
11 Division. See 28 U.S.C. § 84(c)(2). Thus venue is proper in this Court because it is
12 the "district and division embracing the place where such action is pending." 28
13 U.S.C. § 1441(a).

14 7. The only defendant named in the Complaint is Bank of America N.A.
15 Accordingly, all named defendants consent to this removal.

16 8. In compliance with 28 U.S.C. § 1446(d), Bank of America N.A. will
17 serve on Plaintiff and will file with the Clerk of the Superior Court for the County of
18 Riverside, a written "Notice to the Clerk of the Superior Court of the County of
19 Riverside and To Adverse Parties of Filing of Notice of Removal of Civil Action to
20 Federal Court," attaching a copy of this Notice of Removal and all supporting papers.

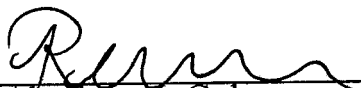
21 9. No previous application has been made for the relief requested herein.

22 ///

1
2 WHEREFORE, Bank of America N.A. respectfully removes this action from
3 the California Superior Court for the County of Sonoma to this Court pursuant to 28
4 U.S.C. §§ 1332, 1441 and 1446.

5 DATED: July 25, 2012
6

7 REED SMITH LLP
8

9 By 
10 Abraham J. Colman
11 Raagini Shah
12 Attorneys for Bank of America N.A.
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REED SMITH LLP

A limited liability partnership formed in the State of Delaware

EXHIBIT A



6/29 @ 3:05P

SUM-100

**SUMMONS
(CITACION JUDICIAL)****NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

Bank of America, National Association an FDIC insured corporation and
DOES 1 through 100 inclusive

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Arnold Frank

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)**FILED**
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

JUN 28 2012

D. BARRAZA

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form. If you want the court to hear your case, there may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorta.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorta.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desecher el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): **Riverside**

4050 Main Street
Riverside, CA 92501

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Elliot Gale, 333 West San Carlos Street, Suite 1750 San Jose, CA 95110, 1-408-279-2288

DATE: June 28, 2012
(Fecha)

JUN 28 2012

Clerk, by
(Secretario)

D. Barraz Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☒ on behalf of (specify): **Bank of America, National Association**
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☒ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):

(SEAL)

1 SCOTT J. SAGARIA (BAR # 217981)
Ssagaria@sagarialaw.com
2 ELLIOT W. GALE (BAR #263326)
Egale@sagarialaw.com
3 SAGARIA LAW, P.C.
333 West San Carlos Street, Suite 1750
4 San Jose, CA 95110
408-279-2288 ph
5 408-279-2299 fax

6 Attorneys for Plaintiff

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

JUN 28 2012

D. BARRAZA

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF RIVERSIDE

10
11 CASE NO.: **1209849**

12
13 COMPLAINT FOR DAMAGES:

14 ARNOLD FRANK,

15 Plaintiff,

16 v.

17 BANK OF AMERICA, NATIONAL
18 ASSOCIATION an FDIC insured
19 corporation and DOES 1 through 100
20 inclusive,

21 Defendants.

1. Violation of Fair Credit Reporting Act;
2. Violation of California Consumer Credit
Reporting Agencies Act;
3. Violation of California Unfair Business
Practices Act;

BY FAX

22
23 COMES NOW Plaintiff ARNOLD FRANK, an individual, based on information and belief, to
24 allege as follows:
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INTRODUCTION

- 1
2
3 1. This action seeks redress for the unlawful and deceptive practices committed by the
4 Defendants in connection with their inaccurate reporting of Plaintiff's discharged debt.
5 In particular, Defendants' conduct involves improperly continuing to report Plaintiff's
6 delinquencies in payment after Plaintiff filed for and was discharged in bankruptcy
7 after receiving notice of Plaintiff's dispute from Transunion. Defendant's also failed to
8 report the debt as disputed. Plaintiff seeks monetary and declaratory relief based on
9 violations of Fair Credit Reporting Act, 15 U.S.C. 1681 et. seq., and California
10 Consumer Credit Reporting Act, California Civil Code §1785.1 et seq. Additional
11 causes of actions are stated for violations of the California Business and Professions
12 Code 17200.

JURISDICTION AND VENUE

- 13
14 2. Plaintiff re-alleges and incorporates herein by this reference the allegations in each and
15 every paragraph above, fully set forth herein.
- 16 3. Plaintiff, Arnold Frank (hereinafter "Plaintiff"), is an individual and currently resides in
17 the county of Riverside, California.
- 18 4. This venue is proper pursuant to California Code of Civil Procedure § 395.5.
- 19 5. This Court has jurisdiction over Plaintiff's allegations pursuant to California Code of
20 Civil Procedure § 410.10 et seq.
- 21 6. Plaintiff is a natural person and competent adult who at all relevant times in this
22 Complaint resided in the State of California.
- 23 7. Defendant, Bank of America, National Association (hereinafter "Creditor") is located at
24 100 North Tyron Street, Charlotte NC 28201. Creditor collects debts on its own behalf
25 throughout the county of Riverside.
- 26 8. Plaintiff is unaware of the true names and capacities of Defendants DOES 1 through
27 100, inclusive. Plaintiff is informed and believes and thereon alleges that each fictitious
28 Defendant was in some way responsible for the matters and things complained of

6 9. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
7 herein, each of Defendant is, and at all relevant times herein was, the agent, employee,
8 and alter ego of each of the remaining Co-Defendants, and in committing the acts
9 herein alleged, was acting in the scope of their authority as such agents, employees, or
10 alter egos and with the permission and consent of the remaining Co-Defendants.

10. On or about April 4, 2012 Plaintiff sent Experian a written notice disputing Creditor's improper reporting of delinquencies in payment after Plaintiff filed for and was discharged in bankruptcy. Pursuant to Section 1681i(a)(2) of the Fair Credit Reporting Act, Experian provided notice to Creditor of Plaintiff's dispute. After receiving notice of Plaintiff's allegations, Creditor verified that it received notice of Plaintiff's from Experian and continued inaccurately reporting the delinquencies in payment.

11. On or about April 4, 2012 Plaintiff sent Transunion a written notice disputing Creditor's improper reporting of delinquencies in payment after Plaintiff filed for and was discharged in bankruptcy. Pursuant to Section 1681i(a)(2) of the Fair Credit Reporting Act, Transunion provided notice to Creditor of Plaintiff's dispute. After receiving notice of Plaintiff's allegations, Creditor verified that it received notice of Plaintiff's from Transunion and continued inaccurately reporting the delinquencies in payment

28 12. Plaintiff re-alleges and incorporates herein by this reference the allegations in each and every paragraph above, as though fully set forth herein.

1 13. On May 2, 2011 Plaintiff filed a joint voluntary Chapter 7 bankruptcy petition in the
2 United States Bankruptcy Court for the Central District of California.

3 14. The § 341(a) meeting of creditors was held in Riverside, California on or about June
4 16, 2011.

5 15. In the Schedules filed with the petition in this case and on the master mailing matrix
6 filed with the Clerk of this Court, two unsecured debts were listed on Schedule F in
7 favor of Creditor in the amounts of \$18,792.00 and \$4,500.00 (hereinafter "Debt").

8 16. On August 16, 2011 Plaintiff was granted a discharge of all dischargeable debts
9 pursuant to 11 U.S.C. § 727. Creditor was noticed by electronic transmission of
10 Plaintiff's discharge on August 16, 2011. Since Plaintiff never re-affirmed Creditor's
11 debt during bankruptcy, Plaintiff alleges that this Discharge included the debt to
12 Creditor.

13 17. On April 4, 2012 Plaintiff sent written notice to Transunion and Experian specifically
14 disputing Creditor's inaccurate reporting of delinquencies in payment after Plaintiff file
15 and received a discharge in bankruptcy.

16 18. On May 4, 2012 Plaintiff received a copy of her Service 1st credit report a compilation
17 of credit reports from Transunion, Equifax, and Experian in order to verify that the
18 inaccuracies on Plaintiff's credit report were corrected. Creditor continued reporting the
19 delinquencies in payment post bankruptcy discharge to Experian but removed the
20 previously reported delinquencies with Transunion. In addition Creditor, after receiving
21 notice of Plaintiff's allegations from Experian and Transunion, failed to report to both
22 credit reporting agencies that the debt was disputed.

23 19. To date, Creditor refuses to correct Plaintiff's credit report despite being noticed of the
24 original bankruptcy and re-noticed of its inaccurate reporting from Transunion and
25 Experian.

26 20. The actions of Creditor as alleged herein are acts in violation of the Fair Credit
27 Reporting Act, 15 U.S.C. § 1681s-2(b).

28 21. The actions of Creditors as alleged herein are acts in violation of the consumer credit
reporting agencies act California Civil Code § 1785.25(a).

1 22. The actions of Creditors as alleged herein are acts in violation of the California
2 Business and Professions Code § 17200.

3 **FIRST CAUSE OF ACTION**
4 (Violation Of Fair Credit Reporting Act
5 15 U.S.C. § 1681s-2(b))
(Against Defendant Creditor and Does 1-100)

6 23. Plaintiff re-alleges and incorporates herein by this reference the allegations in each and
7 every paragraph above, as though fully set forth herein.

8 24. Creditor, in the course of regular business, reports information to credit reporting
9 agencies.

10 25. Plaintiff promptly disputed Creditor's inaccurate reporting with Transunion and
11 Experian. Transunion and Experian sent notice of Plaintiff's dispute to Creditor
12 pursuant to Section 1681i(a)(2) of the Fair Credit Reporting Act. Creditor was
13 thereafter under a duty to reasonably investigate Plaintiff's dispute and to modify,
14 delete, or block the information if the investigation finds the information is incomplete
15 or inaccurate pursuant to section 15 U.S.C. 1681s-2(b)(1)(A) & (E).

16 26. Plaintiff is informed that Creditor violated 15 U.S.C. 1681s-2(b)(1)(A) by failing to
17 reasonably investigate Plaintiff's dispute after receiving notice from Transunion and
18 Experian. Specifically, Plaintiff is informed that Creditor, after receiving notice of
19 Plaintiff's dispute from Transunion and Experian, should have discovered from its
20 records, including the two notices sent from the bankruptcy noticing center, that
21 Plaintiff's account was discharged in bankruptcy. Because Plaintiff was no longer
22 personally obligated to pay the preexisting debt with Creditor, Creditor should not have
23 continued reporting any delinquencies in payment to Experian.

24 27. Plaintiff is informed that Creditor violated 15 U.S.C. 1681s-2(b)(1)(E) by failing to
25 discover and remove the derogatory delinquent notation on Plaintiff's credit report.
26 Specifically, Creditor should have removed the disputed delinquencies in payment with
27 Experian after discovering and removing the delinquencies reported to Transunion. In
28

1 addition, Creditor should have reported to Experian and Transunion that Plaintiff's
2 account was in dispute.

3 28. Creditor's failure to correct the previously disclosed inaccuracies on Plaintiff's credit
4 report was intentional and in reckless disregard of its duty to refrain from reporting
5 inaccurate information. Consequently, creditor willfully and negligently failed to
6 comply with its duty to investigate Plaintiff's dispute under 15 U.S.C. 1681(n) & (o).

7 29. As a direct and proximate result of Creditor's willful and untrue communications,
8 Plaintiff has suffered actual damages including but not limited to reviewing credit
9 reports from all three consumer reporting agencies, traveling to and from Plaintiff's
10 counsel's office, sending demand letters, continued impairment to her credit score, and
11 such further expenses in an amount to be determined at trial.

12 30. As a further direct and proximate result of Creditor acts state herein, Plaintiff incurred
13 pain and suffering, was impeded in seeking necessary products and services from
14 vendors and additional credit from other credit agencies.

15 31. Wherefore, Plaintiff prays for judgment as hereinafter set forth.

16 **SECOND CAUSE OF ACTION**

17 (Violation Of Consumer Credit Reporting Agencies Act
18 California Civil Code § 1785.25(a))
19 (Against Defendants Creditor and Does 1-100)

20 32. Plaintiff re-alleges and incorporates herein by this reference the allegations in each and
21 every paragraph above, as though fully set forth herein.

22 33. Creditor, in the ordinary course of business, regularly and on a routine basis furnishes
23 information to one or more consumer credit reporting agencies.

24 34. Creditor intentionally and knowingly reported inaccurate and false information
25 regarding delinquency in payment after Plaintiff received a discharge in bankruptcy to
26 credit reporting agencies in violation of California Civil Code § 1785.25(a).

27 35. Creditor should have discovered through investigation that the reported information of
28 Plaintiff's account was inaccurate.

1 36. Creditor failed to correct inaccurate information provided to the agencies as described
2 hereinabove in violation of California Civil Code § 1785.25(a).

3 37. Creditor's communications of false information, and repeated failures to investigate,
4 and correct their inaccurate information and erroneous reporting were done knowingly,
5 intentionally, and in reckless disregard for their duties and Plaintiff's rights.

6 38. As a direct and proximate result of Creditors willful and untrue communications,
7 Plaintiff has suffered actual damages including but not limited to reviewing credit
8 reports from all three consumer reporting agencies, traveling to and from Plaintiff's
9 counsel's office, sending demand letters, continued impairment to her credit score, and
10 such further expenses in an amount to be determined at trial.

11 39. As a further direct and proximate result of Creditor acts state herein, Plaintiff incurred
12 pain and suffering, was impeded in seeking necessary products and services from
13 vendors and additional credit from other credit agencies.

14 40. Wherefore, Plaintiff prays for judgment as hereinafter set forth.

15 **THIRD CAUSE OF ACTION**

16 (Unfair Business Practices Act
17 California Business and Professions Code § 17200)
18 (Against Defendant Creditor and Does 1-100)

19 58. Plaintiff re-alleges and incorporates herein by this reference the allegations in each and
20 every paragraph above, as though fully set forth herein.

21 59. Plaintiff brings this action in individual capacity and on behalf of the general public.

22 60. Creditor at all times relevant to this Complaint, was engaged in the business of
23 collections and providing services on credit to qualified applicants.

24 61. Commencing on or about January 18, 2011 and continuing to the present, Creditor
25 committed the acts of unfair practices as defined by Business and Professions Code §
26 17200 and described in the above stated Causes of Action.

27 62. Creditor's misleading and unfair practice within the meaning of Business and
28 Professions Code § 17200 specifically includes Creditor's continued inaccurate

1 reporting after receiving notice of Plaintiff's dispute in violation of California Civil
2 Code § 1785.25(a).

3 63. These unfair and unlawful business practices of Creditor are likely to continue and
4 therefore will continue to injure Plaintiff and mislead the public by inaccurate record
5 keeping, failure to correct inaccuracies and erroneous dissemination of inaccurate
6 information, and present a continuing threat to the public.

7 65. Wherefore, Plaintiff prays for judgment as hereinafter set forth.

8
9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff prays for judgment as follows:

- 11 a. For preliminary and permanent injunctive relief to stop Defendants from
12 engaging in the conduct described above;
- 13 b. Award \$10,000 in statutory and actual damages pursuant to 15 U.S.C. § 1681n
14 and California Civil Code § 1785.31;
- 15 c. Award punitive damages in an amount to deter further unlawful conduct
16 pursuant to 15 U.S.C. § 1681n; and California Civil Code § 1785.31
- 17 d. Award attorney's fees and costs of suit incurred herein pursuant to 15 U.S.C. §
18 1681n & o; and California Civil Code § 1785.31;
- 19 e. For determination by the Court that Creditor's policies and practices are
20 unlawful and in willful violation of 15 U.S.C. § 1681n, et seq.; California
21 Business and Professions Code § 17200, et seq.; and California Civil Code §§
22 45, 1785.25(g), et seq.;
- 23 f. For determination by the Court that Creditor's policies and practices are
24 unlawful and in negligent violation of 15 U.S.C. § 1681o;
- 25 g. For such other and further relief as the court deems appropriate under the
26 circumstances.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of this matter by jury.

SAGARIA LAW, P.C.

Dated: June 28, 2012

By:


Elliot Gale, Esq.
Attorneys for Plaintiff

PROOF OF SERVICE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 355 South Grand Avenue, Suite 2900, Los Angeles, California 90071.

I am readily familiar with the firm's business practice of collection and processing correspondence for mailing with the U.S. Postal Service. Under said practice, correspondence is deposited with the U.S. Postal Service in the ordinary course of business on that same day with postage thereon fully prepaid. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in this declaration.

On July 24, 2012, I served the foregoing document described as: **NOTICE OF REMOVAL OF CIVIL ACTION UNDER 28 U.S.C. § 1441(b) AND (c)** **FEDERAL QUESTION** by having placed a true copy thereof in a sealed envelope addressed as follows:

Scott J. Sagaria, Esq.
Elliot W. Gale, Esq.
Sagaria Law, P.C.
333 W. San Carlos St.
Suite 1750
San Jose, California 95110
Telephone: (408) 279-2288
Facsimile: (408) 279-2299
Ssagaria@sagarialaw.com
Egale@sagarialaw.com

I deposited such envelope with postage thereon prepaid with the United States Postal Service at 355 South Grand Avenue, Suite 2900, Los Angeles, California.

I am employed in the office of a member of the bar at whose direction service was effected.

Executed on July 24, 2012, at Los Angeles, California.

Charles Koster
Type or Print Name

